UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

June 4, 2007

Mr. Kevin Wickey
State Conservationist
National Resources Conservation Service
75 High Street, Room 301
Morgantown, WV 26505

Re: Final Supplemental Work Plan and Final Environmental Impact Statement for the Lost River Subwatershed of the Potomac River Watershed, Hardy County, West Virginia (August 2006); CEQ No. 20070165

Dear Mr. Wickey,

In accordance with the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act and the Council on Environmental Quality (CEQ) regulations implementing NEPA (40CFR 1500-1508), the United States Environmental Protection Agency (EPA) has reviewed the Final Environmental Impact Statement (FEIS) for the construction of Site 16 flood control and water supply structure on Lower Cove Run, Lost River Subwatershed. It is our understanding that application under Section 404 of the Clean Water Act (Section 404) for impacts to wetlands will be submitted at a later date, assuming a decision to fund and proceed with the project is granted. The FEIS has been prepared and the project sponsored by the Hardy County Commission, Potomac Valley Conservation District and the West Virginia State Conservation Committee; the document was prepared with assistance of the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS).

The Draft Environmental Impact Statement (DEIS) was sent to the EPA last year, and comments were prepared and sent to NRCS in correspondence dated October 24, 2006. In the letter, EPA discussed several deficiencies in the document, especially related to support of the need of the project, discussion of possible alternative actions to address project purpose and need, the absence of a secondary and cumulative effects analysis, and potential mitigation measures. EPA recognizes and appreciates the effort to provide additional information to address deficiencies. The document has been improved by this effort. It is believed that there remain items not fully addressed by the revisions, including an analysis of secondary (or indirect) effects, a resources trends analysis within the secondary and cumulative effects discussion, and limited supporting data and methods description. The details of the technical comments, and response to changes in the document, are included as an attachment to this letter.

Concerns about this project remain, though the final document has gone far to address some of the inadequacies of the DEIS. EPA typically does not provide a rating for a final document, as done for the draft. We appreciate the effort made to address our concerns, and hope that some additional consideration will be given to our technical comments prior to development of the Record of Decision and for future Environmental Impact Statements.

EPA appreciates the opportunity to provide comments on the FEIS for the Lower Cove Run Site 16 dam project and would be pleased to discuss any of the comments and suggestions presented in this letter and attachments. Please feel free to contact Barbara Rudnick, principal staff contact at (215) 814-3322.

Sincerely,

William Arguto,
NEPA Teamleader
Environmental Programs Branch

Attachments

cc: USFWS, West Virginia Field Office
US Army Corps of Engineers, Pittsburgh District

TECHNICAL COMMENTS

The comments will follow the format of previous comments sent in the EPA correspondence of October 24, 2006.

Need

The stated need for the project is to address flood control and rural water supply. As stated in our comments on the DEIS, it seems unusual that a new EIS addresses four watershed projects, when three have already been completed. EPA believes that an evaluation by the proponents of the effectiveness of the first three dam structures would add important information to the document. The EIS does not try to isolate the need for the Lower Cove Run project. It does not appear that any of the problems associated with flooding in the watershed are shown to relate specifically to the area that will be protected by the Lower Cove Run Site 16 dam. As stated in our 2006 letter, the position would be better substantiated if for instance, the yearly cost for flood damage repair required in the past two decades, could be presented to substantiate the modeling effort done.

Table 5 was not revised, though EPA specifically asked for this change. It should be clarified as to what portion of the Lost River Subwatershed is considered in the data shown in the table and reference given to the discussion in Appendix C, page C-4 and 5 for the methodology of how the costs were derived. It would also have been informative if the methodology discussion in the Appendix C specified the years of the interviews, the number of interviews, etc. and why it was determined to be unnecessary to check or correct the modeling effort with actual losses over the decades.

The final document gives limited discussion of the development of a water distribution system. This remains an inadequacy in regard to secondary impacts of the project. Additionally, the water supply need presented in the Projected Water Needs in Hardy County (Appendix 6) gives limited rationale for its estimate of demand. Though some explanation was discussed in phone conversation with EPA, no changes are apparent in the document to allow for public understanding or evaluation of the demand estimate (especially how the demand estimate factored in the expected development of second homes). The report dismisses the use of wells, by stating that existing wells suffer supply challenges in times of drought. No information was given to well depth, or the possibility of deeper wells.

EPA appreciates the effort made to provide additional chemical data for the watershed. It remains relevant and is recommended that historic water quality data be evaluated, and new data collected in order to determine the improvement achieved by the operation of the new dams that were constructed in the watershed over the last decades (Sites 4, 10, 27). This could be used to determine if changes in design or approach would be useful. It would be helpful to document and present specific sampling locations and indicator parameters for monitoring.

Alternatives

EPA recognizes the additional discussion of several potential alternatives. As stated previously, it is unfortunate that the document was unable to develop the issues specific to the 12 square miles of Site 16. For instance, evaluation of purchasing the floodplain of the whole of the Lost River is impracticable (page 14), but evaluation of the floodplain of downstream portions of the Lower Cove Run and a small downstream area of the Lost River Valley (within the 12 square miles) may be more reasonable. Selection of an appropriate alternative would be better justified if data demonstrating the problems in the Lower Cove Run subwatershed were clear. It seems that if the subwatershed needs were specified, flood protection might be approached with a different method, and development of an alternative existing impoundment site for water supply would be reasonable, when determined necessary.

Impacts

EPA appreciates the water temperature data that were added to the report. A temperature profile of the impoundments is very useful, though it would be more useful if up and down stream data were available to confirm that the engineered outflow were effective. It is hoped that effort can be made to collect data to ensure that thermal impacts to the streams do not occur. This is particularly relevant under the protection of the Clean Water Act Section 401 (anti-degradation), enforced by the State.

As stated in the EPA letter of October 2006, an Environmental Impact Statement prepared to satisfy requirements of NEPA needs a section to evaluate the secondary impacts of the proposed action, and cumulative effects. Secondary impacts could include residential or commercial development associated with the proposed water supply system, thermal changes in the stream, fish passage issues, flow conditions during low flow, invasive species. Cumulative effects include impacts of any development related or unrelated to the action which will impact any of the resources affected by the proposed action. No specific secondary effects analysis was presented in the final EIS, though some of the issues were described with direct impacts (e.g. invasive species, thermal changes). The EIS does not fully address preliminary concepts for a treatment and distribution system, the approximate areas likely to become locations for the new residences accounted for by the projection of water demand. If these projections can be made in order to estimate future demand, it would seem reasonable to evaluate the system that it would require, and in turn, the impacts of the residential and commercial development and water distribution system on the environment. An EIS is expected to discuss mitigation for secondary impacts. The document goes far to address the cumulative impacts including foreseeable effects of construction of Corridor H, and other projects in the subwatershed. It is typical to present a map of the area of consideration for secondary and cumulative impacts, and determine a past and future timeframe for an analysis of the trend of the natural resources in the defined area. EPA sent references to guidance on preparation of a secondary and cumulative effects analysis; this could be resent if necessary.

Mitigation

Discussion of mitigation was added to the Final EIS.